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FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised on 2/17/2011 to clarify elements of the original fiscal note.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2011-12		FY 2012-13	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS		See below		See below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See below	See below	See below	See below

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB536 would adopt the Nebraska Uniform Real Property Transfer on Death Act. Among its provisions, the bill also would amend Sec. 76-902 so as to include transfer on death deeds among those deeds currently exempt from the documentary stamp tax. The current documentary stamp tax rate is \$2.25 per \$1,000 of value. Distribution of the proceeds of the tax is as follows:

- \$1.20 Credited to Affordable Housing Trust Fund (administered by Department of Economic Development)
- .30 Credited to Behavioral Health Services Fund (administered by Department of Health & Human Services)
- .25 Credited to Homeless Shelter Assistance Trust Fund (administered by Department of Health & Human Services)
- .50 Retained by counties as collection fee and credited to respective counties' general fund
- \$2.25 Total documentary stamp tax rate per \$1,000 of value

	<i>Affordable Housing Trust Fund</i>	<i>Behavioral Health Services Fund</i>	<i>Homeless Shelter Trust Fund</i>	<i>State Agency Cash Funds SUBTOTAL</i>	<i>Political Subdivisions (Counties) Tax Year 2009</i>
<i>For Informational Purposes: Distribution of Documentary Stamp Tax Revenue</i>	<i>FY2009-10 7,233,968</i>	<i>FY2009-10 1,808,228</i>	<i>FY2009-10 1,507,560</i>	<i>FY2009-10 10,549,756</i>	<i>2,882,118</i>

The Department of Revenue provides estimates of documentary stamp tax revenue impacts as such may result due to the additional exemption that would be granted under provisions of LB536. These estimates are based on an assumption that the proposed exemption of transfer on death deeds would have the same impact as the average impact of the 22 exemptions under current law. The estimates also take into account that LB536 designates January 1, 2012 as its operative date. Additionally, the estimates take into account that federal estate tax is due one year after death and, as such, assume the related revenue impacts will begin to occur in the last quarter of FY 2012-13.

Given assumptions applied by the Department with respect to timing and that the new exemption would represent the same impact as the average impact of current exemptions, Department of Revenue estimates of documentary stamp tax revenue impacts associated with LB536 appear reasonable in a computational sense. However, impacts upon documentary stamp tax revenue would ultimately be dependent upon the incidence and value of real property transfers that may be executed by means of transfer on death deeds as well as the extent to which related real estate transfers may otherwise have been subject to documentary stamp tax collection under current law. If LB536 were enacted, it would appear that in most instances, transfer on death deeds would be utilized in lieu of means of real estate transfer that are exempt from documentary stamp tax under current law (e.g. exemptions currently provided under subsections (15) and (18) of Sec. 76-902). To the extent the new exempt means of property transfer under LB536 might be used in lieu of a currently exempt means of property transfer, documentary stamp tax revenue would not be affected. Assuming the foregoing, it would appear any impact of LB536 upon documentary stamp tax revenue would be relatively minimal.

The Department of Health and Human Services indicates that real estate transfers by means of transfer on death deeds, as authorized by LB536, will affect asset detection for purposes of pursuing Medicaid liabilities. The Department indicates that provisions of the bill represent implications for increased workload in terms of asset detection in pursuing Medicaid liabilities as well as prospects for reductions in recovery of Medicaid liabilities, as assets of Medicaid recipients may be undetected under the authorized procedures for transfer of death deeds. The Department indicates, however, that the extent of such potential impacts is indeterminate given the uncertainty with respect to the extent to which transfer on death deeds may be utilized in the future under authority of LB536.